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9 **BEFORE THE**
BOARD OF OPTOMETRY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

12 **GEORGE MING LAU**
13 **308 Summit Crest Drive**
14 **Lake Forest, CA 92630**

A C C U S A T I O N

15 **Optometry License No. 011908,**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California State Board of Optometry, Department of Consumer
21 Affairs.

22 2. On or about July 5, 2002, the Board of Optometry issued Optometry License Number
23 011908 to George Ming Lau (Respondent). Said license has been in effect at all times relevant to
24 the charges brought herein and will expire on December 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Optometry (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 118(b) of the Code provides that the expiration of a license shall not deprive
2 the Board of jurisdiction to proceed with a disciplinary action during the period within which the
3 license may be renewed, restored, reissued or reinstated.

4 STATUTORY AND REGULATORY PROVISIONS

5 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
6 revoke a license on the ground that the licensee has been convicted of a crime substantially
7 related to the qualifications, functions, or duties of the business or profession for which the
8 license was issued.

9 6. Section 493 of the Code states:

10 Notwithstanding any other provision of law, in a proceeding conducted by a
11 board within the department pursuant to law to deny an application for a license or to
12 suspend or revoke a license or otherwise take disciplinary action against a person
13 who holds a license, upon the ground that the applicant or the licensee has been
14 convicted of a crime substantially related to the qualifications, functions, and duties
15 of the licensee in question, the record of conviction of the crime shall be conclusive
16 evidence of the fact that the conviction occurred, but only of that fact, and the board
17 may inquire into the circumstances surrounding the commission of the crime in order
18 to fix the degree of discipline or to determine if the conviction is substantially related
19 to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, "license" includes "certificate," "permit," "authority,"
17 and "registration."

17 7. Section 3110 of the Code states:

18 The board may take action against any licensee who is charged with
19 unprofessional conduct, and may deny an application for a license if the applicant has
20 committed unprofessional conduct. In addition to other provisions of this article,
21 unprofessional conduct includes, but is not limited to, the following:

21
22 (k) Conviction of a felony or of any offense substantially related to the
23 qualifications, functions, and duties of an optometrist, in which event the record of
24 the conviction shall be conclusive evidence thereof.

24 (l) Administering to himself or herself any controlled substance or using any of
25 the dangerous drugs specified in Section 4022, or using alcoholic beverages to the
26 extent, or in a manner, as to be dangerous or injurious to the person applying for a
27 license or holding a license under this chapter, or to any other person, or to the
28 public, or, to the extent that the use impairs the ability of the person applying for or
holding a license to conduct with safety to the public the practice authorized by the
license, or the conviction of a misdemeanor or felony involving the use,
consumption, or self administration of any of the substances referred to in this
subdivision, or any combination thereof.

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2 8. California Code of Regulations, title 16, section 1516 states:
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5 (b) When considering the suspension or revocation of a certificate of
6 registration on the grounds that the registrant has been convicted of a crime, the
7 Board, in evaluating the rehabilitation of such person and his/her present eligibility
8 for a license, will consider the following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole,
13 probation, restitution or any other sanctions lawfully imposed against the licensee.

14 (5) If applicable, evidence of expungement proceedings pursuant to
15 Section 1203.4 of the Penal Code.

16 (6) Evidence, if any, of rehabilitation submitted by the licensee.

17 (c) When considering a petition for reinstatement of a certificate of registration
18 under Section 11522 of the Government Code, the Board shall evaluate evidence of
19 rehabilitation submitted by the petitioner, considering those criteria of rehabilitation
20 specified in subsection (b).

21 9. California Code of Regulations, title 16, section 1517 states:
22

23 For the purpose of denial, suspension, or revocation of the certificate of
24 registration of an optometrist pursuant to Division 1.5 (commencing with Section
25 475) of the Code, a crime or act shall be considered to be substantially related to the
26 qualifications, functions, and duties of an optometrist if to a substantial degree it
27 evidences present or potential unfitness of an optometrist to perform the functions
28 authorized by his/her certificate of registration in a manner consistent with the public
health, safety, or welfare. Such crimes or acts shall include, but not be limited to,
those involving the following:

(a) Any violation of the provisions of Article 2, Chapter 1, Division 2 of the
Code (Sections 525 et seq. of the Code).

(b) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the
Code (Sections 650 et. seq. of the Code) except Sections 651.4 and 654.

(c) Any violation of the provisions of Chapter 5.4, Division 2 of the Code
(Sections 2540 et seq. of the Code).

(d) Any violation of the provisions of Chapter 7, Division 2 of the Code
(Sections 3000 et seq. of the Code).

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COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(July 19, 2011 Conviction for Driving Under the Influence of Alcohol/Drugs
Causing Bodily Injury on October 3, 2010)

11. Respondent is subject to disciplinary action under sections 490 and 3110(k) in that he was convicted of a crime that is substantially related to the qualifications, functions and duties of an optometrist. The circumstances are as follows:

a. On July 19, 2011, in a criminal proceeding entitled *People of the State of California v. George Ming Lau, aka George M C Lau, Mingchun Liu, George M Lau*, Case No. 10CF3009, in the Superior Court, County of Orange, Central Justice Center, State of California, Respondent was convicted on his plea of guilty to violating Vehicle Code sections 21651(c), driving a motor vehicle the wrong way on a divided highway causing injury or death; 23153(a), driving while under the influence of alcohol/drugs causing injury or death; and 23153(b), driving with a blood alcohol level of .08% or more, causing bodily injury.

b. As a result of the convictions, Respondent was sentenced to three years of formal probation on the following terms and conditions: serve 365 days in the Orange County jail or in a drug treatment program; pay a fine of \$390.00 plus penalty assessments and additional fines, and comply with standard probation terms. Respondent's blood alcohol level was .15%.

c. The circumstances that led to the convictions are that on or about October 3, 2010, at approximately 1:04 a.m. a female driver of a Chevy Impala was entering southbound traffic onto the SR-55 in lane #4, in Orange County, California, traveling at about 35 miles per hour. As she entered the highway she saw a Lexus traveling straight at her in her lane of traffic, going the wrong direction, which was later determined to be driven by Respondent. As she swerved to the right to avoid collision with Respondent's on-coming Lexus, her Impala was struck on the left

1 rear side by Respondent's Lexus, which caused her to spin out of control. As she was spinning,
2 another vehicle struck the front of her vehicle. She came to a stop blocking two lanes of traffic.

3 d. At the same time, a Toyota Rav4, (Rav4) with a male driver and two female
4 passengers was traveling southbound on SR-55 traveling at approximately 65 miles per hour in
5 the #5 lane when the driver of the Rav4 saw the Chevy Impala in front of him swerve out of its
6 lane of traffic. He then saw the Respondent's Lexus coming directly at him. He swerved to the
7 right to try and avoid a collision, when he felt an impact to the driver's side of his vehicle by
8 Respondent's Lexus. The Rav4 rolled approximately four times when it came to a stop on its
9 wheels. The driver of the Rav4 got out of his vehicle and walked to Respondent's Lexus and
10 observed Respondent attempting to start it. The driver of the Rav4 opened Respondent's vehicle
11 door, pulled Respondent out of his vehicle and put him on the ground to wait for the California
12 Highway Patrol (CHP) to arrive.

13 e. When the CHP arrived, the drivers of the other vehicles and witnesses identified
14 Respondent as the driver of the vehicle traveling in the wrong direction on SR-55 that caused the
15 accidents. When the CHP officers spoke to Respondent they observed signs and symptoms of
16 Respondent being under the influence of alcohol. Respondent failed field sobriety tests and
17 admitted to the officers to drinking 3-4 glasses of wine and 2-3 bottles of beer during the previous
18 hour. Respondent was arrested, and his blood alcohol level was measured at .19%. Two female
19 passengers were injured when the Rav4 rolled over after it was struck by Respondent's Lexus.

20 SECOND CAUSE FOR DISCIPLINE

21 (Using Alcohol in a Manner Dangerous to Himself or Others)

22 12. Respondent is subject to disciplinary action under section 3110(l) in that he used
23 alcohol in a manner dangerous to himself or others by drinking alcohol then driving while
24 impaired and causing accidents and injuries to others, as alleged above in paragraph 11, above.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Optometry issue a decision:

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- DATED:

Mona C Maggio
MONA MAGGIO

SD2011800556